

Auctioneers Board

PRE-NOIRA CHECKLIST EXPLANATION SHEET

1. Reasons for the Proposed Regulations (satisfies 1.b of the Pre-NOIRA section of EO25)

The Auctioneers Board has identified several changes that need to be made to its regulations to ensure that they accurately reflect the intent of the Board and to ensure that any unnecessary requirements are removed.

The purpose of the proposal is to make the following changes:

18 VAC 25-21-10 – delete the following definitions as they are either not utilized in the body of the regulations or are already contained in the Code of Virginia:

- Auction – already contained in §54.1-600;
- Auctioneer - already contained in §54.1-600;
- Auction Firm - already contained in §54.1-600;
- Board - already contained in §54.1-600;
- Director - already contained in §54.1-600;
- Person - already contained in §54.1-600;
- Absolute Auction – not utilized in the regulations;
- Estate Auctions – not utilized in the regulations;
- Regular Business – not utilized in the regulations; and
- Reserve Auction – not utilized in the regulations.

18 VAC 25-21-20.2 – clarify that disciplinary action in another jurisdiction relating to auctioneering may prevent licensure in Virginia.

18 VAC 25-21-20.3 - remove the option of substituting 25 auctions in lieu of education as this option was deleted when §54.1-603.B.3 of the Code of Virginia was last amended.

18 VAC 25-21-30 – clarify language.

18 VAC 25-21-40 – clarify language.

18 VAC 25-21-50 – clarify language.

18 VAC 25-21-60.2 – modify to reflect changes in the Code of Virginia.

18 VAC 25-21-90.A – clarify language to reflect lower fee.

18 VAC 25-21-90.B – modify the reinstatement requirements so that:

- Anyone may reinstate within one year of expiration by completing the required application and submitting it with the required fee and bond;
- Anyone whose license has been expired for more than one year, but less than two years may reinstate by completing the required application, submitting it with the required fee and bond, and either sitting for and passing the examination or applying via reciprocity; and
- Anyone whose license has been expired for two years or more shall be required to

apply as a new applicant and meet the entry requirements that are in place as of the date that they make application.

18 VAC 25-21-100.B – clarify as to whether directional signs are to be classified as advertising.

18 VAC 25-21-110.1.b – clarify language.

18 VAC 25-21-180.A – clarify language.

18 VAC 25-21-200 – modify to require that the schools seeking Board approval comply with the following:

- Include the Board’s regulations in their curriculums;
- Periodically certify that they continue to comply with the Board’s requirements; and
- Clarify that the Board may withdraw approval for a school failing to comply with the Board’s requirements.

2. Legal Authority/Mandate (satisfies 1.a of the Pre-NOIRA section of EO25)

§ 54.1-602 of the Code of Virginia requires the Auctioneers Board to develop and administer a regulatory system to regulate individuals and businesses in Virginia that practice auctioneering. While the Board is mandated to establish regulations, the content of the regulations is up to the discretion of the Board.

3. Statement of Essential Nature (satisfies 1.c of the Pre-NOIRA section of EO25)

The regulations are essential to comply with state mandates and to adopt the least burdensome alternatives allowed.

18 VAC 25-21-10 – definitions that are already included in the Code of Virginia or are not used in the body of the regulations do not need to be in the Board’s regulations.

18 VAC 25-21-20.2 – clarify that disciplinary action in another jurisdiction relating to auctioneering may prevent licensure in Virginia.

18 VAC 25-21-20.3 & 18 VAC 25-21-60.2 - need to be modified to be consistent with changes that have been made to the Code of Virginia.

18 VAC 25-21-30, 40, 50, 110.1.b and 180.A – clarify language.

18 VAC 25-21-90.A – clarify language to reflect lower fee.

18 VAC 25-21-90.B – currently, the Board’s requirements for reinstating a license are not clearly delineated in the regulations. By stating these requirements in the regulations, regulants will have a clear understanding of the Board’s requirements.

18 VAC 25-21-100.B – clarify as to whether directional signs are to be classified as advertising so that the Board’s regulants will have a better understanding of whether these signs must comply with the Board’s requirements as to advertising.

18 VAC 25-21-200 – needs to be modified to ensure that any students attending a Board

approved school will receive instruction regarding the Board's regulations that are a key part of the Board's examination. In addition, without periodic assurance that the school continues to comply with the Board's requirements, the Board does not have assurance that a school, once approved, continues to comply with the Board's requirements.

4. Statement of Alternatives Considered (satisfies 1.d of the Pre -NOIRA section of EO25)

Failure to adopt these changes will allow unnecessary requirements to remain in the regulations and would allow unclear language to remain in the regulations; neither of which is desirable so there is no alternative other than to modify the regulations as proposed. In addition, the Board approved schools need to periodically verify continued compliance with the Board's requirements in order to ensure that students are receiving the necessary education. Otherwise, several years could go by with a school not complying with the Board's requirements and harming applicants who are not receiving the education that the school informed the Board they would be providing.

The Board will certainly consider any and all comments received during the NOIRA comment period and the proposed regulation comment period as to any proposed alternatives. In addition, anyone may petition the Board to consider a proposed regulatory change at any time in accordance with the Board's Public Participation Guidelines.

5. Statement of Impact on Families

The contemplated changes are expected to have no impact on families.

pact of most of these clarifications.